

STATE OF MICHIGAN
COURT OF APPEALS

NANCY J. BROMUND and ARTHUR R.
BROMUND,

UNPUBLISHED
July 11, 1997

Plaintiffs-Appellants,

v

No. 195756
Court of Claims
LC No. 96-016093 CM

DEPARTMENT OF TRANSPORTATION,

Defendant-Appellee.

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition granted by the Court of Claims in favor of defendant Department of Transportation in this negligence action based on the highway exception to governmental immunity, MCL 691.1402; MSA 3.996(102). This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff claims that the highway in question, US 23 Northbound through the City of Alpena, was not in a condition reasonably safe and convenient for public travel because there was no painted line demarcating the portion of the Northbound lane of travel, on the right hand edge of the roadway, where parking of vehicles was permitted, from the remaining portion of the Northbound lane reserved for travel. Plaintiff relies on the supporting affidavit of a professional engineer, who cites the Michigan Uniform Manual for Traffic Control Devices as defining the purposes of such a pavement edge marker as providing a visual guide to drivers during inclement weather and as preventing driving on shoulders or other unsuitable portions of the right-of-way. Here, however, there is no claim of inclement weather and, in light of the existence of curbs all along the highway through the City of Alpena, no possibility of driving on the shoulder or other unpaved portion of the roadway. Furthermore, photographs of the highway taken at the location of the accident show that the Northbound lane is substantially wider than the Southbound lane to facilitate the accommodation of parking and travel allowed only in the Northbound lane. No claim is made by plaintiff that the parked vehicle with which she collided was not

* Circuit judge, sitting on the Court of Appeals by assignment.

parked parallel to the curb and with its right hand wheels within 12 inches of that curb as required by §675(1) of the Vehicle Code.

Perhaps, had the Department of Transportation painted the demarcation line for which plaintiff contends, the highway would have been in a condition somewhat safer and more convenient for public travel. But that is not the test; this record fails to indicate that, as constructed and maintained, the highway was not reasonably safe and convenient for public travel, and summary disposition was properly granted. *Wechsler v Wayne County Road Commission*, 215 Mich App 579, 590; 546 NW2d 690 (1996).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Donald A. Teeple